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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of	)	DOCKET FILE COPY ORIGINAL
	)	
1996 Annual Access Tariff Filing	)	CC Docket No. 87-313
	)	DA 96-28
Treatment of Video Dialtone Service	)	
Under Price Cap Regulation	)	CC Docket No. 94-1

**BELL ATLANTIC PETITION FOR WAIVER**

The Telecommunications Act of 1996 eliminated video dialtone regulation of telephone company video services. As a result, there can no longer be a requirement for a separate price cap basket for video dialtone service because there is no longer any such thing as video dialtone. Nonetheless, because the rules requiring a separate price cap basket have not yet been formally repealed, and out of an abundance of caution, Bell Atlantic<sup>1</sup> hereby petitions for a waiver of §§ 61.42, 61.45, 61.47 and 61.48 of the Commission's rules to the extent they might have been interpreted to require a separate price cap basket in Bell Atlantic's 1996 Annual Access Tariff filing for any service that was formerly regulated as video dialtone service. Moreover, given that Bell Atlantic video dialtone service was not commercially available in 1995, there is insufficient data to perform the price cap calculations required by the rules.

<sup>1</sup> The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

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Prior to the passage of the 1996 Act, the Commission's rules required local exchange carriers to include a separate price cap basket for video dialtone service.<sup>2</sup> The enactment of the 1996 Act, however, immediately terminated the Commission's video dialtone rules.<sup>3</sup> As a result, there is nothing left to include in a separate basket.

After the Commission's implementation rulemakings, like providers of any other local exchange carrier's ("LEC's") video service, Bell Atlantic will decide how to categorize its Dover Township video service among the options the 1996 Act offers LECs that provide video services. While services approved under the video dialtone rubric prior to the date of enactment were not terminated,<sup>4</sup> going forward they will be regulated under one of the 1996 Act's alternatives for LECs offering video service. In the interim, Bell Atlantic will operate its service under the terms of its tariff and the Commission's rules for common carrier services. Regardless, Bell Atlantic can not be regulated as a provider of "video dialtone" service, because no such service any longer exists.

Moreover, there is a practical impediment to creating a separate basket for Bell Atlantic's video service in Dover. Commercial availability of the service did not commence in Dover until January 29, 1996.<sup>5</sup> Consequently, demand quantities for 1995 price cap calculations are zero.

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<sup>2</sup> ***Price Cap Performance Review for Local Exchange Carriers; Treatment of Video Dialtone Services Under Price Cap Regulation***, Second Report and Order, CC Docket 94-1 (rel. Sept. 21, 1995) ("Second Report and Order").

<sup>3</sup> 1996 Act at § 302 (b) (3).

<sup>4</sup> *Id.*

<sup>5</sup> Indeed, the limited duration (January 29 through February 8, 1996) and small size of Bell Atlantic's video dialtone service in Dover provide another reason to grant this waiver request. The order mandating a separate price cap basket is subject to a requirement that the size of the video dialtone service offering exceed a *de minimis* threshold level. Second Report and Order, ¶ 35. The Commission has not yet determined the criteria for setting the specific threshold level.

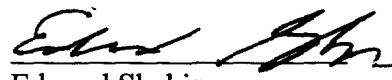
Because Commission rules would require that Bell Atlantic would have to divide by the zero revenue and demand components -- a mathematical impossibility -- Bell Atlantic is unable to calculate either the Price Cap Index (PCI) or Actual Price Index (API) for the video dialtone basket.<sup>6</sup>

#### CONCLUSION

Based on the foregoing, the Commission should waive any requirement that Bell Atlantic create a temporary separate price cap basket for video services offered in Dover Township.

Respectfully submitted,

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February 16, 1996

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<sup>6</sup> See 47 C.F.R. § 61.45.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 16th day of February, 1996 a copy of the foregoing "Bell Atlantic Petition for Waiver" was served on the parties on the attached list.

  
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